

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

RACHEL PATILLO

Plaintiff,

VS.

FEDEX GROUND PACKAGE SYSTEM,  
INC.

Defendant.

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CIVIL ACTION NO. 4:21-cv-3304

**FEDEX GROUND PACKAGE SYSTEM, INC.'S NOTICE OF REMOVAL**

TO THE HONORABLE UNITED STATES DISTRICT JUDGE:

Defendant FedEx Ground Package System, Inc. (“FedEx Ground” or “Defendant”) files this Notice of Removal and would respectfully show the Court as follows:

**I.**  
**BACKGROUND**

1. On August 19, 2021, Defendant filed Plaintiff’s Original Petition, in the case styled *Rachel Patillo vs. FedEx Corporation*; Cause No. 2021-50165 in the 334<sup>th</sup> Judicial District Court of Harris County, Texas (the “Lawsuit”).

2. On September 2, 2021, Plaintiff filed Plaintiff’s First Amended Original Petition, Request for Disclosure and Rule 193.7 Notice, adding FedEx Ground as a named Defendant. *See* Exhibit A-3.

3. On September 8, 2021, undersigned counsel for the Defendant agreed to accept service on behalf of FedEx Ground, conditioned upon entry of a notice of nonsuit for FedEx Corporation. *See* Exhibit B.

4. On September 8, 2021, Plaintiff filed Plaintiff Rachel Patillo's Notice of Nonsuit Without Prejudice regarding FedEx Corporation. *See* Exhibit A-5.

5. Service was therefore perfected on September 8, 2021, making this Notice of Removal timely.

6. This Notice of Removal is accompanied by an index of the documents filed in state court and a copy of the state court file, which are attached as **Exhibit "A."** Other than the documents attached as Exhibit A, no pleadings, process, orders or other documents in the case have been served or otherwise received by FedEx Ground.

## **II.**

### **BASIS FOR REMOVAL**

7. This case is removable based upon diversity jurisdiction because (1) there is complete diversity of citizenship among the parties and (2) the amount in controversy exceeds \$75,000. 28 U.S.C. §§ 1332, 1441.

#### **A. The \$75,000.00 amount-in-controversy requirement is satisfied.**

8. Plaintiff's live pleading includes an assertion that Plaintiff is entitled to, and seeks to recover up to \$250,000.00 from Defendant in this action for (1) past and future physical pain and mental anguish; (2) past and future loss of earning capacity; (3) past and future physical impairment; and (4) past and future reasonable and necessary medical expenses. *See* Exhibit A-4 ¶3. Plaintiff's pleading seeking up to \$250,000.00 establishes that the amount in controversy exceeds the \$75,000 minimum amount in controversy necessary for this Court to exercise its diversity jurisdiction. *See* 28 U.S.C. § 1446(c)(2); *Lopez v. Trujillo*, 475 B.R. 550, 555 (N.D. Tex. 2012) *citing* *St. Paul Reinsurance Co. v. Greenburg*, 134 F.3d 1250 (5th Cir. 1998) and *De Aguilar v. Boeing Co.*, 47 F.3d 1404, 1408 (5th Cir.), cert. denied 516 U.S. 865, 116 S.Ct. 180 ("For diversity purposes, the amount in controversy is determined by the amount sought on the face of

the plaintiff's pleadings, so long as the plaintiff's claim is made in good faith"). "[A] defendant's notice of removal need only include a plausible allegation that the amount in controversy exceeds the jurisdictional threshold." *Dart Cherokee Basin Operating Co., LLC v. Owens*, 574 U.S. 81, 89, 135 S. Ct. 547, 554, 190 L. Ed. 2d 495 (2014). Evidence establishing this amount is only required if the allegation is challenged by the plaintiff or the court. *Id.* Therefore the amount in controversy requirement is met in this matter pursuant to Plaintiff's petition and Defendant's allegation.

**B. Complete diversity exists between the proper parties to the lawsuit.**

9. A removing defendant is required to allege that diversity of citizenship existed at the time of the filing of the suit and at the time of removal. *In re Allstate Ins. Co.*, 8 F.3d 219, 221 (5th Cir. 1993). Plaintiff Rachel Patillo ("Plaintiff") is a natural person and is a citizen and resident of Texas at all relevant times, including at the time the Lawsuit was filed and at the time of the filing of this Notice of Removal. *See* Exhibit A-4, ¶1. Therefore, for diversity purposes, Plaintiff is a citizen of Texas.

10. Defendant FedEx Ground Package System, Inc. is a foreign corporation incorporated in Delaware with its principal place of business in Pennsylvania at the time of the filing of this notice of removal and at the time this lawsuit was filed. Therefore, for diversity purposes, Defendant is a citizen of the states of Pennsylvania and Delaware.

**III.**  
**Conclusion**

Removal in this matter is proper. Plaintiff and Defendant have complete diversity of citizenship. The amount in controversy is in excess of \$75,000, and this Notice of Removal is timely filed with this Court. Defendant has filed and served all ancillary documents and this Court properly has jurisdiction.

WHEREFORE, PREMISES CONSIDERED, Defendant requests this Court assume full jurisdiction over the cause herein on the basis of diversity of citizenship.

Respectfully submitted,

HARTLINE BARGER, L.L.P.

*/s/Peter C. Blomquist*

---

PETER C. BLOMQUIST  
State Bar No. 00794921  
S.D. Tex. Bar No. 20002  
pblomquist@hartlinebarger.com  
DANIEL R. ERWIN  
State Bar No. 24059724  
S.D. Tex. Bar No. 931756  
JUSTIN R. CLICK  
State Bar No. 24116206  
S.D. Tex Bar No. 3606545  
1980 Post Oak Blvd., Suite 1800  
Houston, Texas 77056  
Phone: 713-759-1990  
Fax: 713-652-2419

ATTORNEYS FOR DEFENDANT FEDEX  
GROUND PACKAGE SYSTEM, INC.

**CERTIFICATE OF SERVICE**

I hereby certify that on the 8<sup>th</sup> day of October, 2021 a true and correct copy of the foregoing was served in accordance with the Federal Rules of Civil Procedure via the Court's CM/ECF System on all counsel of record.

*/s/Peter C. Blomquist*

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**PETER C. BLOMQUIST**

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

RACHEL PATILLO

Plaintiff,

VS.

FEDEX GROUND PACKAGE SYSTEM,  
INC.

Defendant.

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CIVIL ACTION NO.

**DEFENDANT FEDEX GROUND PACKAGE SYSTEM, INC.  
INDEX OF STATE COURT RECORD – EXHIBIT A**

<b>Exhibit No.</b>	<b>Document Title</b>	<b>Date Filed</b>
A-1	Case Summary Docket Sheet	N/A
A-2	Plaintiff's Original Petition	8/12/2021
A-3	Citation	8/13/2021
A-4	Plaintiff's First Amended Petition	9/2/2021
A-5	Plaintiff's Notice of Nonsuit	9/8/2021
A-6	Defendant's Original Answer	10/4/2021

# Exhibit A-1

HCDistrictclerk.com

PATILLO, RACHELL vs. FEDEX CORPORATION

10/6/2021

Cause: 202150165 CDI: 7 Court: 334

## APPEALS

No Appeals found.

## COST STATMENTS

No Cost Statments found.

## TRANSFERS

No Transfers found.

## POST TRIAL WRITS

No Post Trial Writs found.

## ABSTRACTS

No Abstracts found.

## SETTINGS

No Settings found.

## NOTICES

No Notices found.

## SUMMARY

### CASE DETAILS

<b>File Date</b>	8/12/2021
<b>Case (Cause) Location</b>	Civil Intake 1st Floor
<b>Case (Cause) Status</b>	Active - Civil
<b>Case (Cause) Type</b>	Premises
<b>Next/Last Setting Date</b>	N/A
<b>Jury Fee Paid Date</b>	10/4/2021

### CURRENT PRESIDING JUDGE

<b>Court</b>	334 <sup>th</sup>
<b>Address</b>	201 CAROLINE (Floor: 14) HOUSTON, TX 77002 Phone:7133686500
<b>JudgeName</b>	DAWN ROGERS
<b>Court Type</b>	Civil

## ACTIVE PARTIES

Name	Type	Post Attorney Jdgm
PATILLO, RACHELL	PLAINTIFF - CIVIL	ORTH, PHILIP J. III
FEDEX CORPORATION	DEFENDANT - CIVIL	
FEDEX (A CORPORATION) MAY BE SERVED BY SERVING ITS REGISTERED AGENT	REGISTERED AGENT	
FEDEX GROUND PACKAGE SYSTEM, INC	DEFENDANT - CIVIL	BLOMQUIST, PETER CARL

## INACTIVE PARTIES

No inactive parties found.

## JUDGMENT/EVENTS

Date	Description	Order Signed	Post Jdgm	Pgs /Page	Volume Filing Attorney	Person Filing
10/4/2021	JURY FEE PAID (TRCP 216)			0		
10/4/2021	ANSWER ORIGINAL PETITION			0	BLOMQUIST, PETER CARL	FEDEX GROUND PACKAGE SYSTEM, INC
10/4/2021	JURY FEE PAID (TRCP 216)			0		
9/2/2021	FIRST AMENDED ORIGINAL PETITION			0	ORTH, PHILIP J. III	PATILLO, RACHELL
8/12/2021	ORIGINAL PETITION			0	ORTH, PHILIP J. III	PATILLO, RACHELL

## SERVICES

Type	Status	Instrument	Person	Requested	Issued	Served	Returned	Received	Tracking	Deliver To
CITATION CORPORATE	SERVICE ISSUED/IN POSSESSION OF SERVING AGENCY	ORIGINAL PETITION	FEDEX (A CORPORATION) MAY BE SERVED BY SERVING ITS REGISTERED AGENT	8/12/2021	8/13/2021				73901747	E-MAIL
1999 BRYANT STE 900 DALLAS TX 75201										

## DOCUMENTS

Number	Document	Post Jdgm	Date	Pgs
98233292	DEFENDANT FXG Original Answer		10/04/2021	5
97765515	Plaintiff Rachel Patillo' Notice of Nonsuit without Prejudice		09/08/2021	2
97688228	Plaintiffs' First Amended Original Petition, Request For Disclosure, And Rule 193.7 Notice		09/02/2021	5
97357009	eIssue: Citation Corporate		08/13/2021	2
97343459	Plaintiffs Original Petition, Request for Disclosure, and Rule 193.7 Notice		08/12/2021	5



# Exhibit A-2

CAUSE NO. \_\_\_\_\_

RACHEL PATILLO	§	IN THE DISTRICT COURT
	§	
VS.	§	
	§	HARRIS COUNTY, TEXAS
	§	
FEDEX CORPORATION	§	_____ JUDICIAL DISTRICT

---

**PLAINTIFFS' ORIGINAL PETITION, REQUEST FOR DISCLOSURE, AND RULE 193.7 NOTICE**

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TO THE HONORABLE JUDGE OF SAID COURT:

COME NOW, RACHELL PATILLO, hereinafter referred to as Plaintiff, complaining of and against FEDEX CORPORATION, (Defendant hereinafter referred to as "FEDEX", and for causes of action would respectfully show the Court as follows:

**I. DISCOVERY CONTROL PLAN**

1.1 Pursuant to Rule 190 of the Texas Rules of Civil Procedure, Plaintiff would respectfully designate this as a Level 3 case.

**II. PARTIES**

2.1 Plaintiff RACHELL PATILLO resides at 927 Nelson Street Crosby, Harris County, Texas 77532. Pursuant to the Texas CIVIL PRACTICE & REMEDIES CODE §30.014, the Court and parties are hereby advised that the last three numbers of RACHELL PATILLO's Texas driver's license are 927; the last three numbers of her social security number are 983.

2.2 Defendant, FEDEX is a corporation authorized and qualified to do business in the State of Texas and may be served with citation by serving its registered agent for service of process, CT Corporation System at 1999 Bryant Ste. 900 in Dallas, Texas 75201, or at any other location where they may be found.

**III. JURISDICTION AND VENUE**

3.1 This Court has jurisdiction in this cause since the damages sought are within the jurisdictional limits of this Court.

3.2 All or a substantial part of the events or omissions giving rise to this action occurred in Harris County, Texas.

#### **IV. FACTS**

4.1 It has become necessary to bring this lawsuit as a result of fall that occurred on or about August 15, 2019. On August 15, 2019 while employed by KC & Steel, Inc. Rachel Patillo drove to the FEDEX terminal parking lot located at 6903 E Orem Drive in Houston, Texas 77048 and parked in the lot as she did every day. After getting out of her vehicle, her foot fell into a deep hole causing it to pop; her ankle bent all the way up. She then hit the ground and caught her breath.

#### **V. CAUSE OF ACTION FOR NEGLIGENCE**

5.1 At the time and place of the occurrence in question, Defendant, FEDEX was guilty of the following acts of negligence, each of which was a separate act of negligence and the proximate cause of the collision made the basis of this lawsuit, as well as all resulting losses, suffering, and damage hereinafter alleged:

1. Failing to maintain a safe parking lot;
2. Failing to provide adequate warning of the unsafe parking lot;

5.2 Each and all of the above and foregoing acts, both omission and commission, were negligent and such constituted negligence and were each and all a proximate cause of the occurrence made the basis of this lawsuit.

## **VI. DAMAGES**

6.1 As a result of the occurrence in question, RACHELL PATILLO sustained injuries to her back, right lower extremity, right upper extremity, head, and body in general, and hereby seeks compensatory damages for these injuries. Said injuries have caused physical pain and mental anguish in the past and will likely cause physical pain and mental anguish in the future; said injuries have caused physical impairment in the past and will likely cause physical impairment in the future; said injuries have required medical care in the past and will likely require medical care in the future. Furthermore, these injuries have caused Plaintiff, RACHELL PATILLO to lose time from work and have caused her to suffer a loss of earning capacity in the past and will likely cause her to suffer a loss of earning capacity in the future.

6.2 Accordingly, RACHELL PATILLO advances her claim for the following: (1) past and future physical pain and mental anguish; (2) past and future loss of earning capacity; (3) past and future physical impairment; and (4) past and future reasonable and necessary medical expenses incurred in the past and reasonable and necessary medical expenses likely to be incurred in the future.

6.3 For reasons previously set forth herein, Plaintiff seeks any and all damages generally recognized at law for such actions. Accordingly, Plaintiff seeks actual damages in an amount which she entrusts to a Harris County jury, and which the jury deems appropriate. Pursuant to Rule 47 of the TEXAS RULES OF CIVIL PROCEDURE, Plaintiffs hereby plead damages for monetary relief under \$250,000.

6.5 Plaintiff further seeks pre-judgment interest and post-judgment interest at the maximum amount permitted by law.

## **VII. REQUEST FOR DISCLOSURE**

7.1 Pursuant to Rule 194 of the TEXAS RULES OF CIVIL PROCEDURE, Plaintiff requests Defendant, IRMA LOPEZ GIRON., within fifty (50) days of the service of Plaintiff's Original Petition, to supply the information or material described in Rule 194.2 (a) through (l). The Defendant must serve a written response to this Request for Disclosure on Plaintiff within fifty (50) days after the service of this request. Failure to timely respond shall constitute an abuse of discovery pursuant to TEXAS RULE OF CIVIL PROCEDURE 215.

## **VIII. RULE 193.7 NOTICE**

8.1 Pursuant to Rule 193.7 of the TEXAS RULES OF CIVIL PROCEDURE, Plaintiff hereby gives actual notice to the Defendant that any and all documents produced may be used against the Defendant producing the document at any pretrial proceeding and/or at the trial of this matter without the necessity of authenticating the documents.

## **PRAYER**

**WHEREFORE, PREMISES CONSIDERED,** Plaintiff, RACHELL PATILLO prays that upon trial of this cause she have judgment against Defendant, FEDEX; that she recovers actual damages in an amount within the jurisdictional amounts of this honorable Court; that she have pre-judgment interest at the maximum legal rate and post-judgment interest at the maximum legal rate; that she recovers her costs of Court in this action expended; and that she have such other relief, both special and general, at law and in equity, to which she may show herself justly entitled.

Respectfully submitted,

*Philip J. Orth, III*

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PHILIP J. ORTH, III  
TBN: 15323070  
16406 LAMPLIGHTER ST.  
CROSBY, TEXAS, 77532  
PHONE: (713) 520-8333  
FAX: (772) 217-8162  
PHILIP.ORTH@YAHOO.COM  
ATTORNEY FOR PLAINTIFF



I, Marilyn Burgess, District Clerk of Harris County, Texas certify that this is a true and correct copy of the original record filed and or recorded in my office, electronically or hard copy, as it appears on this date.

Witness my official hand and seal of office this October 6, 2021

Certified Document Number: 97343459 Total Pages: 5

Marilyn Burgess, DISTRICT CLERK  
HARRIS COUNTY, TEXAS

**In accordance with Texas Government Code 406.013 electronically transmitted authenticated documents are valid. If there is a question regarding the validity of this document and or seal please e-mail [support@hcdistrictclerk.com](mailto:support@hcdistrictclerk.com)**

# Exhibit A-3



CAUSE NO. 202150165

COPY OF PLEADING PROVIDED BY PLT

RECEIPT NO: 896568 TRACKING NO: 73901747  
EML

Plaintiff:  
PATILLO, RACHELL  
vs.  
Defendant:  
FEDEX CORPORATION

In The 334th  
Judicial District Court of  
Harris County, Texas  
201 CAROLINE  
Houston, Texas

**CITATION CORPORATE**

**THE STATE OF TEXAS**  
**County of Harris**

**To: FEDEX (A CORPORATION) MAY BE SERVED BY SERVING ITS REGISTERED AGENT CT CORPORATION SYSTEM**  
**1999 BRYANT STE 900, DALLAS TX 75201**  
**OR AT ANY OTHER LOCATION WHERE THEY MAY BE FOUND**

Attached is a copy of: PLAINTIFFS ORIGINAL PETITION REQUEST FOR DISCLOSURE AND RULE 193.7 NOTICE

This instrument was filed on August 12, 2021 in the above cited cause number and court. The instrument attached describes the claim against you.

**YOU HAVE BEEN SUED.** You may employ an attorney. If you or your Attorney do not file a written answer with the District Clerk who issued this citation by 10:00 a.m. on the Monday next following the expiration date of 20 days after you were served this citation and petition, a default judgment may be taken against you. In addition to filing a written answer with the clerk, you may be required to make initial disclosures to the other parties of this suit. These disclosures generally must be made no later than 30 days after you file your answer with the clerk. Find out more at TexasLawHelp.org.

This citation was issued on August 13, 2021, under my hand and seal of said court.

Issued at the request of:

ORTH, PHILIP J. III  
16406 LAMPLIGHTER ST.  
CROSBY, TX 77532  
713-520-8333  
Bar Number: 15323070



*Marilyn Burgess*

Marilyn Burgess, District Clerk

Harris County, Texas  
201 CAROLINE Houston Texas 77002  
(PO Box 4651, Houston, Texas 77210)

Generated By: JOSHUA HALL

EML

Tracking Number: 73901747

CAUSE NUMBER: 202150165

PLAINTIFF: PATILLO, RACHELL

vs.

DEFENDANT: FEDEX CORPORATION

In the 334th

Judicial District Court of

Harris County, Texas

OFFICER - AUTHORIZED PERSON RETURN

Came to hand at \_\_\_\_\_ o'clock \_\_\_\_ M. on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_. Executed at

(Address) \_\_\_\_\_  
in

\_\_\_\_\_ County at o'clock \_\_\_\_ M. On the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by

Delivering to \_\_\_\_\_ defendant, in person, a true copy of this Citation together with the accompanying \_\_\_\_\_ copy (ies) of the «Attachment». Petition attached thereto and I endorsed on said copy of the Citation the date of delivery.

To certify which I affix my hand officially this \_\_\_\_\_ day of \_\_\_\_\_, 20.

Fees \$ \_\_\_\_\_

\_\_\_\_\_  
Affiant

By \_\_\_\_\_  
Deputy

On this day, \_\_\_\_\_, known to me to be the person whose signature appears on the foregoing return, personally appeared. After being by me duly sworn, he/she stated that this citation was executed by him/her in the exact manner recited on the return.

SWORN TO AND SUBSCRIBED BEFORE ME, On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Notary Public



I, Marilyn Burgess, District Clerk of Harris County, Texas certify that this is a true and correct copy of the original record filed and or recorded in my office, electronically or hard copy, as it appears on this date.

Witness my official hand and seal of office this October 6, 2021

Certified Document Number: 97357009 Total Pages: 2

Marilyn Burgess, DISTRICT CLERK  
HARRIS COUNTY, TEXAS

**In accordance with Texas Government Code 406.013 electronically transmitted authenticated documents are valid. If there is a question regarding the validity of this document and or seal please e-mail [support@hcdistrictclerk.com](mailto:support@hcdistrictclerk.com)**

# Exhibit A-4

CAUSE NO. 202150165

RACHEL PATILLO	§	IN THE DISTRICT COURT
	§	
	§	
VS.	§	HARRIS COUNTY, TEXAS
	§	
FEDEX CORPORATION AND FEDEX GROUND PACKAGE SERVICE, INC.	§	334th JUDICIAL DISTRICT

---

**PLAINTIFFS' FIRST AMENDED ORIGINAL PETITION, REQUEST FOR DISCLOSURE, AND RULE  
193.7 NOTICE**

---

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW, RACHELL PATILLO, hereinafter referred to as Plaintiff, filing her First Amended Original Complaint complaining of and against FEDEX CORPORATION, (Defendant hereinafter referred to as "FEDEX", and FEDEX GROUND PACKAGE SERVICES, INC. (hereinafter referred to as FEDEX GROUND) and for causes of action would respectfully show the Court as follows:

**I. DISCOVERY CONTROL PLAN**

1.1 Pursuant to Rule 190 of the Texas Rules of Civil Procedure, Plaintiff would respectfully designate this as a Level 3 case.

**II. PARTIES**

2.1 Plaintiff RACHELL PATILLO resides at 927 Nelson Street Crosby, Harris County, Texas 77532. Pursuant to the Texas CIVIL PRACTICE & REMEDIES CODE §30.014, the Court and parties are hereby advised that the last three numbers of RACHELL PATILLO's Texas driver's license are 927; the last three numbers of her social security number are 983.

2.2 Defendant, FEDEX is a corporation authorized and qualified to do business in the State of Texas and has been served with citation by serving its registered agent for service of

process, CT Corporation System at 1999 Bryant Ste. 900 in Dallas, Texas 75201, or at any other location where they may be found.

2.3 Defendant, FEDEX GROUND PACKAGE SERVICES, INC. is a corporation authorized and qualified to do business in the State of Texas and has been served with citation by serving its registered agent for service of process, CT Corporation System at 1999 Bryant Ste. 900 in Dallas, Texas 75201, or at any other location where they may be found.

### **III. JURISDICTION AND VENUE**

3.1 This Court has jurisdiction in this cause since the damages sought are within the jurisdictional limits of this Court.

3.2 All or a substantial part of the events or omissions giving rise to this action occurred in Harris County, Texas.

### **IV. FACTS**

4.1 It has become necessary to bring this lawsuit as a result of fall that occurred on or about August 15, 2019. On August 15, 2019 while employed by KC & Steel, Inc. Rachel Patillo drove to the FEDEX and/or FEDEX GROUND terminal parking lot located at 6903 E Orem Drive in Houston, Texas 77048 and parked in the lot as she did every day. After getting out of her vehicle, her foot fell into a deep hole causing it to pop; her ankle bent all the way up. She then hit the ground and caught her breath.

### **V. CAUSE OF ACTION FOR NEGLIGENCE**

5.1 At the time and place of the occurrence in question, Defendant, FEDEX and/or FEDEX GROUND was guilty of the following acts of negligence, each of which was a separate act of negligence and the proximate cause of the collision made the basis of this lawsuit, as well as all resulting losses, suffering, and damage hereinafter alleged:

1. Failing to maintain a safe parking lot;
2. Failing to provide adequate warning of the unsafe parking lot;

5.2 Each and all of the above and foregoing acts, both omission and commission, were negligent and such constituted negligence and were each and all a proximate cause of the occurrence made the basis of this lawsuit.

## **VI. DAMAGES**

6.1 As a result of the occurrence in question, RACHELL PATILLO sustained injuries to her back, right lower extremity, right upper extremity, head, and body in general, and hereby seeks compensatory damages for these injuries. Said injuries have caused physical pain and mental anguish in the past and will likely cause physical pain and mental anguish in the future; said injuries have caused physical impairment in the past and will likely cause physical impairment in the future; said injuries have required medical care in the past and will likely require medical care in the future. Furthermore, these injuries have caused Plaintiff, RACHELL PATILLO to lose time from work and have caused her to suffer a loss of earning capacity in the past and will likely cause her to suffer a loss of earning capacity in the future.

6.2 Accordingly, RACHELL PATILLO advances her claim for the following: (1) past and future physical pain and mental anguish; (2) past and future loss of earning capacity; (3) past and future physical impairment; and (4) past and future reasonable and necessary medical expenses incurred in the past and reasonable and necessary medical expenses likely to be incurred in the future.

6.3 For reasons previously set forth herein, Plaintiff seeks any and all damages generally recognized at law for such actions. Accordingly, Plaintiff seeks actual damages in an amount which she entrusts to a Harris County jury, and which the jury deems appropriate.

Pursuant to Rule 47 of the TEXAS RULES OF CIVIL PROCEDURE, Plaintiffs hereby plead damages for monetary relief under \$250,000.

6.5 Plaintiff further seeks pre-judgment interest and post-judgment interest at the maximum amount permitted by law.

## **VII. REQUEST FOR DISCLOSURE**

7.1 Pursuant to Rule 194 of the TEXAS RULES OF CIVIL PROCEDURE, Plaintiff requests Defendant, FEDEX GROUND, within fifty (50) days of the service of Plaintiff's Original Petition, to supply the information or material described in Rule 194.2 (a) through (l). The Defendant must serve a written response to this Request for Disclosure on Plaintiff within fifty (50) days after the service of this request. Failure to timely respond shall constitute an abuse of discovery pursuant to TEXAS RULE OF CIVIL PROCEDURE 215.

## **VIII. RULE 193.7 NOTICE**

8.1 Pursuant to Rule 193.7 of the TEXAS RULES OF CIVIL PROCEDURE, Plaintiff hereby gives actual notice to the Defendants that any and all documents produced may be used against the Defendants producing the document at any pretrial proceeding and/or at the trial of this matter without the necessity of authenticating the documents.

## **PRAYER**

**WHEREFORE, PREMISES CONSIDERED,** Plaintiff, RACHELL PATILLO prays that upon trial of this cause she have judgment against Defendants, FEDEX and FEDEX GROUND; that she recovers actual damages in an amount within the jurisdictional amounts of this honorable Court; that she have pre-judgment interest at the maximum legal rate and post-judgment interest at the maximum legal rate; that she recovers her costs of Court in this action



expended; and that she have such other relief, both special and general, at law and in equity, to which she may show herself justly entitled.

Respectfully submitted,

/s/ Philip J. Orth, III

---

PHILIP J. ORTH, III  
TBN: 15323070  
16406 LAMPLIGHTER ST.  
CROSBY, TEXAS, 77532  
PHONE: (713) 520-8333  
FAX: (772) 217-8162  
PHILIP.ORTH@YAHOO.COM  
ATTORNEY FOR PLAINTIFF



I, Marilyn Burgess, District Clerk of Harris County, Texas certify that this is a true and correct copy of the original record filed and or recorded in my office, electronically or hard copy, as it appears on this date.

Witness my official hand and seal of office this October 6, 2021

Certified Document Number: 97688228 Total Pages: 5

Marilyn Burgess, DISTRICT CLERK  
HARRIS COUNTY, TEXAS

**In accordance with Texas Government Code 406.013 electronically transmitted authenticated documents are valid. If there is a question regarding the validity of this document and or seal please e-mail [support@hcdistrictclerk.com](mailto:support@hcdistrictclerk.com)**

# Exhibit A-5

CAUSE NO. 202150165

RACHEL PATILLO	§	IN THE DISTRICT COURT
	§	
	§	
VS.	§	HARRIS COUNTY, TEXAS
	§	
FEDEX CORPORATION AND FEDEX	§	334th JUDICIAL DISTRICT
GROUND PACKAGE SERVICE, INC.		

**PLAINTIFF RACHEL PATILLO' NOTICE OF NONSUIT WITHOUT  
PREJUDICE**

Now comes Plaintiff Rachel Patillo and non-suits without prejudice Fedex Corporation ("FEDEX").

This non-suit does not affect the pending claims asserted against Fedex Ground Package Service Inc. which is being substituted in for FEDEX in this case. The Defendant has agreed to be served by filing the claim already filed with their attorney.

Respectfully submitted,

/s/ Philip J. Orth, III

**PHILIP J. ORTH, III**

SBN: 15323070

16406 Lamplighter

Crosby, Texas 77532

Phone: 713-520-8333

Fax: 772-217-8162

Philip.Orth@yahoo.com

**ATTORNEY FOR PLAINTIFF**

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing document was served in compliance with Rules 21 and 21a of the Texas Rules of Civil Procedure on the 8<sup>th</sup> day of September, 2019.

/s/ Philip J. Orth, III

Philip J. Orth, III



I, Marilyn Burgess, District Clerk of Harris County, Texas certify that this is a true and correct copy of the original record filed and or recorded in my office, electronically or hard copy, as it appears on this date.

Witness my official hand and seal of office this October 6, 2021

Certified Document Number: 97765515 Total Pages: 2

Marilyn Burgess, DISTRICT CLERK  
HARRIS COUNTY, TEXAS

**In accordance with Texas Government Code 406.013 electronically transmitted authenticated documents are valid. If there is a question regarding the validity of this document and or seal please e-mail [support@hcdistrictclerk.com](mailto:support@hcdistrictclerk.com)**

# Exhibit A-6

CAUSE NO. 2021-50165

RACHEL PATILLO  
Plaintiff,

vs.

FEDEX GROUND PACKAGE  
SYSTEM, INC.  
Defendants.§  
§  
§  
§  
§  
§  
§

IN THE DISTRICT COURT OF

HARRIS COUNTY, TEXAS

334TH JUDICIAL DISTRICT

**DEFENDANT FEDEX GROUND PACKAGE SYSTEM, INC.'S ORIGINAL ANSWER  
AND DEMAND FOR JURY TRIAL**

TO THE HONORABLE JUDGE OF THIS COURT:

COME NOW Defendant, FedEx Ground Package System, Inc. (referred to as "Defendant" or "FedEx Ground" herein) and file this, its Original Answer, Demand for Jury Trial in response to the causes of action brought against them by Plaintiff Rachel Patillo ("Plaintiff") and in support, Defendant would respectfully show the Court as follows:

**I.  
GENERAL DENIAL**

1. Pursuant to Rule 92 of the Texas Rules of Civil Procedure, Defendant generally denies each and every allegation in Plaintiff's Original Petition. Defendant respectfully requests that the Court and Jury require Plaintiff to prove their claims, charges, and allegations by preponderance of the evidence, clear and convincing evidence, and/or beyond a reasonable doubt, as required by the laws, regulations, and statutes of Texas and the United States and the Constitutions of the State of Texas and the United States. Defendant reserves the right to amend this Answer after Defendant has an opportunity to more closely investigate Plaintiff's allegations and claims, as is Defendant's right and privilege under the Texas Rules of Civil Procedure and the laws of the State of Texas.



## II.

### **ADDITIONAL AND/OR ALTERNATIVE DEFENSES AND DENIALS**

2. FedEx Ground asserts that Plaintiff's claims are barred, in whole or in part, because the occurrence and injuries, if any, made the basis of this lawsuit were proximately caused by the failure of Plaintiff to exercise ordinary care for his own safety on the occasion in question.

3. Pleading further and in the alternative, without waiving the foregoing, Defendant, as set forth below, asserts the following separate, additional, conjunctive, and/or alternative defenses, including affirmative defenses, and denials to the Original Petition (and any subsequently filed pleadings), and each purported claim or cause of action contained therein:

4. Defendant asserts that, in the event Defendant is found liable to Plaintiff, any such liability being expressly denied, Defendant is entitled to contribution, credit, and/or indemnity, as provided by the laws and statutes of Texas including, but not limited to, the provisions of Chapters 32 and 33 of the Texas Civil Practice and Remedies Code, as well as other applicable laws and statutes.

5. Defendant asserts that the recovery of medical and health care expenses should be limited to the amount actually paid or incurred by or on behalf of Plaintiff, pursuant to Section 41.0105 of the Texas Civil Practice & Remedies Code.

6. Defendant asserts that, if any exemplary damages are awarded, said damages are subject to the statutory limit set forth in the Texas Civil Practice and Remedies Code § 41.001, *et. seq.*, other applicable statutory authority and common law. Furthermore, any award of exemplary damages would violate Defendant's due process rights guaranteed by the Fourteenth Amendment to the United States Constitution and by Section 19 of Article 1 of the Texas Constitution, unless Plaintiff proves Defendant's liability for exemplary damages, and the amount of exemplary damages, if any, by clear and convincing evidence.

7. Without waiving the foregoing and for further answer, if any be necessary, Defendant has not knowingly or intentionally waived any applicable defense, whether affirmative or otherwise, and hereby give notice that they reserve the right to assert and rely upon such other applicable defenses as may become available or apparent during this proceeding. Defendant further reserves the right to supplement and/or amend their answer to Plaintiff's allegations in accordance with the Texas Rules of Civil Procedure.

**III.**  
**DEMAND FOR JURY TRIAL**

8. Pursuant to Rule 216 of the Texas Rules of Civil Procedure, Defendant hereby makes a demand for a jury trial in this cause. A jury fee is being paid in accordance with this demand.

**V.**  
**PRAYER**

WHEREFORE, PREMISES CONSIDERED, Defendant prays that the Court render judgment that Plaintiff take nothing by reason of this suit, that Defendant herein be released, discharged, and found not liable to Plaintiff, that this action be dismissed on its merits, that the parties go hence with their costs, without delay, and for such other and further relief, both general and special, at law and in equity, to which Defendant is justly entitled.

Respectfully submitted,  
HARTLINE BARGER LLP



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Phone: 713-759-1990  
Fax: 713-652-2419  
*Attorneys for Defendant A&M Parcel*

**CERTIFICATE OF SERVICE**

On the 4<sup>th</sup> day of October, 2021 I electronically submitted the foregoing document with the clerk of the District Court in Cameron County, Texas, using an Electronic Filing System Provider (EFSP). I hereby certify that I have served all counsel and/or pro se parties of record electronically and/or by another manner authorized by Texas Rule of Civil Procedure 21a:

Philip J. Orth, III  
TBN 15323070  
16406 Lamplighter St.  
Crosby, Texas 77532  
Phone (713) 520-8333  
Fax: (772) 217-8162  
[Philip.Orth@yahoo.com](mailto:Philip.Orth@yahoo.com)  
*Attorney for Plaintiff*



---

Peter C. Blomquist

**Automated Certificate of eService**

This automated certificate of service was created by the eFiling system. The filer served this document via email generated by the eFiling system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

Belinda Johnson on behalf of Peter Blomquist  
 Bar No. 794921  
 bjohnson@hartlinebarger.com  
 Envelope ID: 57858362  
 Status as of 10/4/2021 4:33 PM CST

**Case Contacts**

<b>Name</b>	<b>BarNumber</b>	<b>Email</b>	<b>TimestampSubmitted</b>	<b>Status</b>
Philip Orth		philip.orth@yahoo.com	10/4/2021 4:09:01 PM	SENT
Peter Blomquist		pblomquist@hartlinebarger.com	10/4/2021 4:09:01 PM	SENT
Daniel Erwin		derwin@hartlinebarger.com	10/4/2021 4:09:01 PM	SENT
Justin Click		jclick@hartlinebarger.com	10/4/2021 4:09:01 PM	SENT
Belinda Johnson		bjohnson@hartlinebarger.com	10/4/2021 4:09:01 PM	SENT
Toni Gonzales		tgonzales@hartlinebarger.com	10/4/2021 4:09:01 PM	SENT
David Ransom		dransom@hartlinebarger.com	10/4/2021 4:09:01 PM	SENT



I, Marilyn Burgess, District Clerk of Harris County, Texas certify that this is a true and correct copy of the original record filed and or recorded in my office, electronically or hard copy, as it appears on this date.

Witness my official hand and seal of office this October 6, 2021

Certified Document Number: 98233292 Total Pages: 5

Marilyn Burgess, DISTRICT CLERK  
HARRIS COUNTY, TEXAS

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# Exhibit B

## David Ransom

---

**From:** Justin Click  
**Sent:** Wednesday, September 8, 2021 1:00 PM  
**To:** 'Philip Orth'  
**Cc:** David Ransom; Belinda Johnson  
**Subject:** RE: [EXTERNAL] Fwd: Filing Accepted for Case: 202150165; PATILLO, RACHELL v FEDEX CORPORATION; Envelope Number: 56907410

Philip,

I received both filings, thanks for forwarding those to me. I will make sure we calendar our deadline to answer on behalf of Ground as we are accepting service as of today.

Also, let me know when you are able to forward any information to me regarding Ms. Patillo's damage model, injuries, treatment status, etc. and I will get with my client to see if this is something we can get resolved without having to spend months in discovery.

Thanks,

**Justin Click**  
**Associate Attorney**  
Hartline Barger LLP  
T: (713) 951-4232

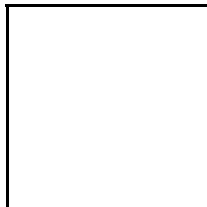
---

**From:** Philip Orth [mailto:philip.orth@yahoo.com]  
**Sent:** Wednesday, September 8, 2021 12:47 PM  
**To:** Justin Click <JClick@hartlinebarger.com>  
**Subject:** [EXTERNAL] Fwd: Filing Accepted for Case: 202150165; PATILLO, RACHELL v FEDEX CORPORATION; Envelope Number: 56907410

Sent from my iPhone

Begin forwarded message:

**From:** no-reply@efilingmail.tylertech.cloud  
**Date:** September 2, 2021 at 12:26:22 PM EDT  
**To:** philip.orth@yahoo.com  
**Subject:** Filing Accepted for Case: 202150165; PATILLO, RACHELL v FEDEX CORPORATION; Envelope Number: 56907410



# Filing Accepted

Envelope Number: 56907410

Case Number: 202150165

Case Style: PATILLO, RACHELL v FEDEX CORPORATION

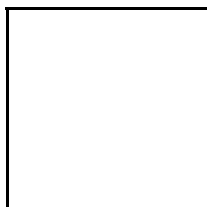
The filing below was reviewed and has been accepted by the clerk's office. You may access the file stamped copy of the document filed by clicking on the below link.

Filing Details	
<b>Court</b>	Harris County District Civil
<b>Case Number</b>	202150165
<b>Case Style</b>	PATILLO, RACHELL v FEDEX CORPORATION
<b>Date/Time Submitted</b>	9/2/2021 11:15 AM CST
<b>Date/Time Accepted</b>	9/2/2021 11:26 AM CST
<b>Accepted Comments</b>	
<b>Filing Type</b>	EFile
<b>Filing Description</b>	Amended Filing
<b>Activity Requested</b>	Amended Filing
<b>Filed By</b>	Philip Orth
<b>Filing Attorney</b>	Philip Orth, III

Document Details	
<b>Lead Document</b>	Original Petition 1.5.pdf
<b>Lead Document Page Count</b>	5
<b>File Stamped Copy</b>	<a href="#">Download Document</a>
This link is active for 30 days.	

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For technical assistance, contact your service provider

Online: <https://www.prodocefile.com>

Phone: (800) 759-5418

Available 24x7 and online with chat

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